

from a port of entry, the agency shall furnish a photocopy of its permit to the district director of customs for retention. In the case of an agency holding a single permit for use of its sub-agencies, an attachment to the permit shall list all locations authorized to withdraw spirits free of tax from customs custody. Any subsequent requests for customs entry from the same port shall refer to the permit number.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

§ 251.184 Entry documents.

Entry documents for importation of tax-free spirits under this subpart shall record the serial numbers or other identifying numbers of the containers and the total quantity in proof gallons of the spirits to be entered.

[T.D. ATF-198, 50 FR 8559, Mar. 1, 1985]

§ 251.185 Customs release.

(a) Upon receipt of appropriate customs entry and a photocopy of a permit, Form 5150.33 or previous editions on Form 1444 (5150.33), the district director of customs shall, following an inspection of the shipment, release spirits free of tax to the Government agency named on the permit, or an attachment thereto.

(b) Customs officers shall not release spirits for shipment until the shipment has been inspected for losses in transit. If it appears that a container or containers have sustained losses in transit, the customs officers shall gauge the damaged container and prepare a package gauge record for the entire shipment, according to § 251.139. A copy of the package gauge record will be retained for the customs files and the original forwarded to the consignee agency.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

Subpart N—Requirements for Liquor Bottles

AUTHORITY: Sec. 5301, 72 Stat. 1374; 26 U.S.C. 5301.

SOURCE: T.D. 6954, 33 FR 6819, May 4, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

§ 251.201 Scope of subpart.

The provisions of this subpart shall apply only to liquor bottles having a capacity of 200 ml. or more except where expressly applied to liquor bottles of less than 200 ml. capacity.

[T.D. 6954, 33 FR 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-34, 41 FR 46865, Oct. 26, 1976]

§ 251.202 Standards of fill.

Distilled spirits imported into the United States in containers of 1 gallon (3.785 liters) or less for sale shall be imported only in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in § 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of part 19, or subpart E of part 5 of this chapter, may be imported for packaging distilled spirits in the United States as provided in part 19 of this chapter.

[T.D. ATF-62, 44 FR 71720, Dec. 11, 1979]

§ 251.204 Distinctive liquor bottles.

(a) *Application.* Liquor bottles of distinctive shape or design, including bottles of less than 200 ml. capacity, may be imported by an importer (filled bottles) or a bottler (empty bottles). For filled bottles, the importer shall submit ATF Form 5100.31 to the Director for approval prior to importation of such bottles into the United States. For empty bottles, the bottler shall obtain approval from the Director on ATF Form 5100.31 prior to using the bottles. The importer or bottler, as applicable, shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph (both front and back of the bottle to the front of each copy of ATF Form 5100.31, along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an authentic model unless specifically requested to do so.

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(b) *Approval.* Properly submitted ATF Forms 5100.31 to import distinctive liquor bottles (filled), or, properly submitted ATF Forms 5100.31 to use distinctive liquor bottles (empty) which have been imported, shall be approved provided such bottles are found by the Director to—

- (1) Meet the requirements of 27 CFR part 5;
- (2) Be distinctive;
- (3) Be suitable for their intended purpose;
- (4) Not jeopardize the revenue; and
- (5) Not be deceptive to the consumer.

The applicant shall keep a copy of the approved ATF Form 5100.31, including an approved photograph (both front and back) of the distinctive liquor bottle, on file at his premises. If ATF Form 5100.31 is disapproved, the applicant shall be notified of the Director's decision and the reasons therefor. The applicant importer is responsible for furnishing a copy of the approved ATF Form 5100.31, including a photograph of the distinctive liquor bottle, to Customs officials at each affected port of entry where the merchandise is examined.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF-114, 47 FR 43951, Oct. 5, 1982, as amended by T.D. ATF-242, 51 FR 39526, Oct. 29, 1986]

§ 251.205 [Reserved]

§ 251.206 Bottles not constituting approved containers.

The Director is authorized to disapprove any bottle, including a bottle of less than 200 ml. capacity, for use as a liquor bottle which he determines to be deceptive. The Customs officer at the port of entry shall deny entry of any such bottle containing distilled spirits upon advice from the Director that such bottle is not an approved container for distilled spirits for consumption in the United States.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF-114, 47 FR 43951, Oct. 5, 1982]

§ 251.207 Bottles to be used for display purposes.

Empty liquor bottles may be imported and furnished to liquor dealers for display purposes, provided each bottle is marked to show that it is to be used for such purpose. The importer shall keep records of the receipt and disposition of such bottles, showing the names and addresses of consignees, dates of shipment, and size, quantity, and description of bottles.

[T.D. ATF-206, 50 FR 23956, June 7, 1985]

§ 251.208 Liquor bottles denied entry.

Filled liquor bottles, not conforming to the provisions of this subpart, shall be denied entry into the United States: *Provided*, That, upon letterhead application, in triplicate, the regional director (compliance) of the region in which the port of entry is situated may, in nonrecurring cases, authorize the release from customs custody of distilled spirits in bottles, except those coming under the provisions of § 251.206, which, through unintentional error, do not conform to the provisions of this subpart, if he finds that such release will not afford a jeopardy to the revenue.

(Approved by the Office of Management and Budget under control number 1512-0352)

[T.D. 6954, 33 FR 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984]

§ 251.209 Used liquor bottles.

The Director may pursuant to letterhead application filed in triplicate, authorize an importer to receive liquor bottles assembled for him as provided in § 194.263 of this chapter. Used liquor bottles so received may be stored at any suitable location pending exportation for reuse. The importer shall keep records of the receipt and disposition of used liquor bottles.

(Approved by the Office of Management and Budget under control number 1512-0352)

[T.D. 6954, 33 FR 6819, May 4, 1968, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984]